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TARRANT COUNTY TEXAS  
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2003 OCT 15 PM 2:50  
SUZANNE H. WILSON  
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BY 21011

FIRST AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS, COVENANTS, AND CONDITIONS  
OF MUSTANG CREEK

STATE OF TEXAS           §  
  §           KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TARRANT   §

This FIRST AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS, AND CONDITIONS OF MUSTANG CREEK (this "Declaration") is made and entered into to be effective as of September 30, 2003, by LONESOME DOVE DEVELOPMENT, LTD., a Texas limited partnership ("Declarant").

RECITALS

WHEREAS, Declarant is the owner of the real property in Tarrant County, Texas, described in Article II, Section 1 of this Declaration and desires to create thereof a planned community with open spaces and other common facilities for the benefit of the said community; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community for the maintenance of said open spaces and other common facilities, and to this end desires to subject the real property described in Article II, Section 1, to the covenants, restrictions, conditions, easements, charges and liens hereinafter set forth; each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants, restrictions and conditions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of Texas, as a non-profit corporation, Mustang Creek Homeowners Association, Inc for the purpose of exercising the functions aforesaid; and

WHEREAS, Declarant has recorded previously that certain Declaration of Restrictions, Covenants, and Conditions of Mustang Creek (the "Original Declaration") recorded at Book 17255, Page 69, Real Property Records of Tarrant County, Texas; and

WHEREAS, pursuant to Section 11 of the Original Declaration, as the owner and holder of at least fifty-one percent (51%) of the outstanding votes of the Association, desires to amend or change the Original Declaration by the execution and recording of this First Amended and Restated Declaration of Restrictions, Covenants, and Conditions of Mustang Creek.

NOW, THEREFORE, Declarant declares that the real property described in Article II, Section 1, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, conditions, easements, charges and liens (sometimes referred to herein as "restrictions, covenants and conditions") hereinafter set forth.

## ARTICLE I Definitions

Section 1. The following words, when used in this Declaration or any supplemental Declaration (unless otherwise indicated) shall have the following meanings:

- a. "Association" shall mean and refer to Mustang Creek Homeowners' Association, Inc., its successors and assigns.
- b. "The Properties" shall mean and refer to the Existing Property and additions thereto, as are subject to this Declaration or any Supplemental Declaration made pursuant to Section 2 of Article II, below.
- c. "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of the members of the Association.
- d. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties, with the exception of Common Properties as herein defined, and any other Lot made subject to this Declaration pursuant to Section 2 of Article I below.
- e. "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
- f. [Intentionally deleted.]
- g. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit which is a part of the Properties, including those which may be made subject hereto pursuant to Section 2 of Article II, below, and including purchasers under contract from Declarant, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the

mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

i. "**Member**" shall mean and refer to every person or entity that holds membership in the Association. For purposes hereof, "good standing" is defined as a person or entity holding membership in the Association, with assessments paid prior to delinquency, and possessing property within the Association that complies with this Declaration. A Member must be in good standing to be able to execute the rights afforded to Members including but not limited to serving on the Board of Directors for the Association, serving in an appointed capacity on an Association sanctioned committee, and participating in any election, survey, or activity sponsored or authorized by the Association.

j. "**Declarant**" shall mean and refer to LONESOME DOVE DEVELOPMENT, LTD., its successors and assigns.

**ARTICLE 11**  
**Properties Subject to This Declaration;**  
**Additions Thereto**

**Section 1. Existing Property.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Tarrant County, Texas, and is more particularly described in the attached "Exhibit A".

**Section 2. Additional Property.** Additional properties may become subject to this Declaration in any of the following manners:

a. Declarant may, without the consent of any Owner or any other person, from time to time and at any time add or annex additional real property to the scheme of this Declaration by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions which shall extend the scheme of the covenants and restrictions of this Declaration to such additional property; provided, however, that such Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the additional property.

b. In the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of at least seventy five percent (75%) of the outstanding votes within each voting class of the Association.

c. Any additions made pursuant to Paragraphs (a) and (b) of this Section 2, when made, shall automatically extend the jurisdictions, functions, duties and membership of the Association to the properties added, shall extend to the Owners of the Lots within such other properties the rights and privileges of Owners and membership in the

Association as provided hereunder, and shall extend the plan of this Declaration to all properties covered by this Declaration and the Supplemental Declaration; and any reference to "Existing Property" or "Existing Properties" or "The Properties" in this Declaration shall thereafter include such additional real property.

**Section 3. Declaration Supercedes Original Declaration.** This Declaration amends, restates and supercedes in its entirety the Original Declaration.

### ARTICLE III Association, Organization and Management

**Section 1. Board of Directors.** The Board of Directors of the Association shall consist of not less than three (3) or more than nine (9) members, the exact number to be fixed in accordance with the provisions of the Bylaws.

**Section 2. Classes of Members.** The Association shall have two classes of voting membership:

a. Each owner of a residence, with exception of the Declarant, shall be a "Class A Member" and shall be entitled to one (1) Class A vote per lot. Where such owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised by such individual person as shall be designated in proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the Association.

b. The Declarant shall be the sole "Class B Member" and shall be entitled to one (1) vote for each Lot or Residence owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B Membership shall cease and be converted to Class A Membership at such time as the Declarant no longer retains the right to appoint and remove members of the Board and officers of the Association pursuant to Section 3 below.

#### **Section 3. Control by Declarant.**

a. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association. Declarant hereby retains the right to appoint and remove any member of the Board of the Association and any officer or officers of the Association until 30 days after the first of the following events shall occur: (i) the expiration of twenty (20) years after the date of the recording of this Declaration, (ii) the date upon which all of the Lots intended to be part of the Development have been conveyed by the Declarant to Owners other than a person or persons constituting the Declarant or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant.

b. Upon the expiration of the period of the Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots, and a special election as dictated by the Bylaws of the Association shall be called at such time. This special election shall serve as the election process for a new Board of Directors which shall undertake the responsibility of the Board and Declarant shall deliver any applicable Association documents and records that it may have kept on behalf of the Association.

**Section 4. Other Membership Provisions.** Each Owner of the Lot shall be a member of the Association, and such membership shall continue so long as such person or entity continues to be an Owner. The membership of an Owner in the Association shall be appurtenant to and may not be separated from record ownership of any Lot, and the transfer of any membership in the Association which is not made as a part of a transfer of a Lot shall be null and void. Ownership of a Lot shall be the sole qualification of being a member of the Association. Each Owner shall comply with all rules and regulations as established by the Association from time to time.

**Section 5. Rights and Powers of Association.** The Association shall have the duty to maintain, insure, and pay all taxes and assessments on (or reimburse Declarant for same) all common areas on the Land and shall have the right, power, and authority to do any act which is consistent with or required by the provisions of this Declaration or the Bylaws, whether the same be expressed or implied, including but not limited to the following:

a. The power to promote the health, safety, and welfare of the Owners of the Lots.

b. The power to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration and Bylaws of the Association.

c. The power to fix, levy, collect, and enforce payment of any charges or assessments as set forth in the Declaration and to pay all expenses in connection with such charges or assessments, all office expenses, and all other expenses incidental to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association.

d. The power to acquire (by gift, purchase, or otherwise), own, hold, improve, build on, operate, maintain, convey, sell, lease, transfer, to dedicate for public use, or otherwise to dispose of real personal property in connection with the affairs of the Association.

e. The power to borrow money, to mortgage, to pledge, to deed in trust, or to hypothecate any or all of the Association's real or personal property as security for

money borrowed or debts incurred.

f. The power to keep accounting records with respect to all activities and operations of the Association.

g. The power to contract with and employ other for maintenance and repair.

h. The power to adapt rules and regulations concerning the operation of the Association.

i. The power to appoint a management company to operate the Association.

j. The power to have and to exercise any and all powers, rights, and privileges that a corporation organized under the Texas Non-Profit Corporation Act by law may now or at a later time have or exercise.

k. The power to act in the capacity of principal, agent, joint venturer, partner, or otherwise.

**Section 6. Enforcement of Declaration.** The Association, through the Board of Directors, shall have the right to enforce this Declaration, except and to the extent that the right to enforce certain provisions hereof has been granted to the Architectural Control Committee, whether expressly or by implication. If the Board of Directors shall fail or refuse to enforce this Declaration for an unreasonable period of time, after written request to do so, then any aggrieved Owner may enforce this Declaration on his own behalf by appropriate action, whether in law or in equity.

#### ARTICLE IV Property Rights in Common Properties

**Section 1. Members' Easements of Enjoyment.** Subject to these terms, conditions and provisions hereof, every Member shall have a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit. In addition, any member may delegate, in accordance with the Bylaws of the Association, his right and easement of enjoyment to members of his family, his guests, his tenants, or contract purchasers who reside on the property.

**Section 2. Title to Common Properties.** Declarant shall retain the legal title or easements to the Common Properties until such time as development construction has been completed thereon.

**Section 3. Decorative Fencing.** In addition to the other common areas defined herein, the Common Properties shall include decorative fencing around a portion of the perimeter of the Properties and a portion of the Common Property. The design and

materials of construction and/or repair of the said decorative fence shall be approved by the Architectural Control Committee.

## ARTICLE V Covenant for Maintenance Assessments

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Declarant, for each Lot or Living Unit owned by him within the Properties, hereby covenants, and each Owner of any Lot or Living Unit by acceptance of a deed therefore whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments of charges, (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. Such annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Separate annual or special assessments shall be made upon each Lot or Living Unit whether or not there is more than one Living Unit per Lot.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the residents of the development, including, but not limited to, security, the acquisition, construction, improvement, maintenance, insuring, and equipping of Common Property, maintenance of private driveways or other improvements or landscaping which are designated by Declarant to be maintenance obligations of the Association, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association including, without limitation, any ad valorem real and personal property taxes on any real and personal property owned by the Association, and the payment of all principal and interest when due on all debts owed by the Association.

**Section 3. Basis and Maximum of Annual Assessments.** Annual assessments shall begin on the first day of the month following the initial conveyance of any Lot by the Declarant, and annual assessment for the Owner of each Lot or Living Unit shall be determined at an annual rate.

The Board of Directors of the Association, may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of

defraying, in whole or part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 51 percent (51%) of the votes of each Member who has voted in person or by proxy at a meeting duly called for such purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance setting forth the purpose of the meeting.

**Section 5.** This Section intentionally deleted.

**Section 6. Quorum for any Action under Sections 4 and 5.** The Quorum for any action authorized by Sections 4 and 5 shall be as follows.

a. At the first meeting called as provided in Sections 4 and 5 hereof, the presence at the meeting of Members or of proxies entitled to cast 51 percent (51%) of all the votes of the membership shall constitute a quorum.

b. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirements set forth in Sections 4 and 5 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Due Date of Assessments.** The annual assessments provided for herein shall become due and payable on the 1st day of January after the commencement day herein above set out and the due date of any special assessment under Article V Section 4 hereof shall be fixed in the resolution authorizing such assessment.

The Board of Directors may, at its option, change the annual assessments to semi-annual, quarterly, or monthly assessment and determine the due date thereof.

**Section 8. Duties of the Board of Directors.** The Board of Directors of the Association shall, upon the commencement date herein provided, prepare a roster of the Properties and assessments applicable thereto which shall be kept in the office of the Association, and shall be open to inspection by any Owner. Written notice of the initial assessment and of any subsequent changes therein shall be forthwith sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificate and such certificate shall be conclusively evidence of payment of any assessment therein stated to have been paid.



**Section 9. Effect of Non-payment of Assessment: Personal Obligations of Owner; Lien; Remedies of Association.** If the assessments are not paid on the date when due, then such assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, forthwith become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment; however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the petition in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the Court, together with costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-usage of the Common Properties or abandonment of his property.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

**Section 11. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments, charges and lien created herein:

- a. All properties to the extent of any easement or any other interest therein dedicated and accepted by the local public authority and devoted to public use.
- b. All Common Properties as defined in Article 1, Section 1 hereof.
- c. All properties exempted from taxation by the laws of the State of Texas, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI  
Architectural Control

**Section 1.** The Declarant hereby appoints an "Architectural Control Committee" (herein so called), which shall consist of three (3) members, who shall be appointed by the Declarant. All matters before the Architectural Control Committee shall be decided by majority vote of its members. After the Declarant conveys the last Lot owned by the Declarant, the Association shall assume all of the rights and powers of the Architectural Control Committee and shall exercise same, through the Board of Directors, in the manner herein provided. In the event of the death, incapacity or resignation of a member of the Architectural Control Committee, the successor for such member shall be appointed by the majority of the remaining members of the Architectural Control Committee if such death, incapacity or resignation occurs on or before the Declarant conveys the last Lot owned by the Declarant; and by the Association if such death, incapacity or resignation occurs thereafter.

**Section 2.** All building plans must be submitted to the Architectural Control Committee for approval before construction begins. No building, fences, wall sign exterior light, or other structure or other apparatus, either permanent or temporary, shall be commenced, erected, placed or maintained upon the existing property (or any Lot constituting a part thereof), nor shall any remodeling or reconstruction thereof, exterior addition thereto, change therein, or alteration, excavation, subdivision or re-subdivision thereof, including without limitation, changes in or specifications showing the nature, kind, shape, height, materials, color, and location and other material attributes of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee; and shall include a plot plan showing the location of the Improvements, the plan for drainage and the construction plans giving the dimensions of all improvements and shall specify in addition to construction diagrams and specifications, all materials to be used and color schemes for all Improvements. The Architectural Control Committee will be deemed to have been given, and this Article will be deemed to have been fully complied with. The Architectural Control Committee shall have the right, all in the sole discretion of the Architectural Control Committee, to disapprove any plans and specifications submitted to it for any of the following reasons:

- a. if such plans and specifications are not in accordance with any of the provisions of these covenants or the codes, ordinances and regulations of Tarrant County, Texas;
- b. if the external design elevation, appearance, location or color scheme for the proposed improvements are not in harmony with the general surrounding of the existing property or with the adjacent dwellings or structures or with the topography;
- c. if the plans and specifications submitted are incomplete;

d. if the design, appearance or location of any landscaping is not in harmony with the general surroundings or topography;

e. if the Architectural Control Committee deems the plans and specifications, or any part thereof; to be contrary to the interest, welfare or rights of any or all parts of the existing property.

The Architectural Control Committee is authorized to accept whatever drawings, plans or specifications as it deems desirable within its sole discretion to be in satisfaction of the foregoing. The decision of the Architectural Control Committee shall be final, conclusive and binding upon all Owners. Neither the Architectural Control Committee nor Declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans and specifications to meet local Code and Laws. The signature of any two members of the Architectural Control Committee on any such plans and specifications with "approved" or "disapproved" written or stamped thereon shall be prima facie evidence as to such approval or disapproval being the act of the full Architectural Control Committee.

Prior to building within the subdivision, all builders must be approved by the Architectural Control Committee. The Architectural Control Committee has the right to approve or reject any builder for any reason.

## ARTICLE VII Restrictive Covenants

Each of the specifically numbered Lots shown upon any recorded residential subdivision map of the Properties (as distinguished from such land, if any, within the limits of such subdivisions which is not specifically platted and numbered as Lots) shall be impressed with the following restrictions, covenants and conditions for the purpose of carrying out a general plan of development and maintenance for continuity and conformance with the intended master plan of the premises:

a. No dwelling, accessory structure, alterations to existing structures, fence, or landscaping shall be erected or maintained on any Lot until the plans and specifications for same have been submitted according to the current application procedure and approved by the Architectural Control Committee prior to commencement of the same.

b. No trees shall be removed except on utility easements as required in the furnishing of utility services or as permitted by Declarant for any oil and gas lessee as provided in Article VIII Section 3. No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the details, plans and specifications showing the color, nature, kind, shape, height, materials and location of same shall have been submitted, in writing, to and approved according to the Application Procedure, as to

harmony of external design and location in relation to surrounding structures and topography, by the Architectural Control Committee.

c. All dwellings shall be constructed to front on the street on which the Lot fronts unless any Lot in question fronts on two streets in which case the dwelling constructed on such Lot shall front, as the Architectural Control Committee may approve, on either of the two streets or partially on both.

d. All dwellings and accessory structures shall be erected and maintained behind the building line shown on the lot, or as otherwise approved by the Architectural Control Committee.

e. No dwelling or accessory structure shall be erected or maintained nearer than twenty-five (25) feet from one side line and twenty-five (25) feet from the other side line and fifty (50) feet from front line of any Lot or as approved otherwise by the Architectural Control Committee.

f. The floor area (that enclosed for heating and/or air conditioning) of any Living Unit shall be not less than the following: all lots shall contain a minimum floor area of 1700 square feet in the Living Unit.

g. All dwellings shall be constructed of stone, stucco, masonry, brick, or of such other materials as may be approved by the Architectural Control Committee, to the extent of at least 85% percent of the area of the outside walls on the first floor. The second floor of such dwellings may be masonry or such other material as may be approved by the Architectural Control Committee. The walls of any accessory structure shall be constructed of identical masonry material used on the dwelling to the extent of 100% of the outside walls of the accessory structure, unless approved otherwise by the Architectural Control Committee. Hardiplank is not considered a masonry product and its use in construction must be approved.

h. No fence, wall, or hedge shall be placed on any portion of the sites with a greater height than seven feet (7'), and no fence is permitted on any part of any Lot unless approved by the Architectural Control Committee. Should a hedge, shrub, tree, flower or other planting be so placed, or afterwards grown, so as to encroach upon adjoining property, such encroachment shall be removed upon request of the owner of the adjoining property or at the request of the Architectural Control Committee. No wood panel or picket or chain-link fencing shall be allowed unless approved by the Architectural Control Committee.

i. All Lots shall be used for single-family residential purposes only, no building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family residence per lot, which residence may not exceed two and one-half (2-1/2) stories in height (excluding basements), and a private garage as provided below.

j. Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living together as a single housekeeping unit, together with any household servants.

k. None of the Lots shall be subdivided into smaller Lots.

l. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that horses, dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. One horse shall be allowed per Lot, unless the Lot is larger than one and one-half acres in area, whereby two horses shall be allowed.

m. No noxious or offensive act or activity shall be allowed upon any Lots, nor shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood.

n. No sign shall be erected or maintained on any Lot except a "for sale" sign which sign shall not exceed fifteen (15) square feet in size, or a sign owned by the Declarant or by the Association.

o. The location and design of any proposed swimming pool, including fencing, pumps, backwash, and any other related paraphernalia must be approved in writing by the Architectural Control Committee.

p. Roofs shall be composition shingles (25-year guarantee minimum) wood shingles, slate, imitation slate, or roof tiles if compatible in color and texture with the prevailing roofing of homes within the Property. Roofing materials must be approved in advance by the Architectural Control Committee.

q. No pole mast, antenna, radio, television, satellite dish or other aerial shall be erected or maintained on any Lot except as approved by the Architectural Control Committee.

r. The garage door of any house or residence within the Properties must open to the rear or side of the house or as approved by the Architectural Control Committee. Driveways shall be constructed of concrete or asphalt or as approved by the Architectural Control Committee. Culvert pipes underneath driveways shall be faced with natural stone or brick with mortar or concrete

s. Sporting, recreation, exercise and or play equipment, dog runs or other outdoor items shall be placed in the back yards of the Lots.

t. A Lot or any portion of any Lot that is exposed to the public view (including the area between the Lot's front yard and the road pavement) must be maintained by the property Owner in a neat and orderly fashion. In the event this restriction is not complied

with, the Association has the right to cause this maintenance to be done at the expense of the property Owner.

u. No Lot affected hereby shall be used for the dumping or storage of rubbish, trash, debris, surplus soil or rocks, etc.

v. Drilling for oil, gas or other minerals shall be allowed under, through and beneath Lots, but shall not be permitted on the surface of any Lot. No derrick or other similar structure shall be erected, maintained or permitted upon any Lot. Geophysical and seismic surveys may be conducted on the surface of the Properties.

w. No outbuilding, shop, trailer or residence of a temporary character shall be permitted (except as otherwise reserved as a right by the Declarant). No building material of any kind shall be stored upon the lot until the owner is ready to commence improvement.

x. No boats, trailers, mobile home, camper, boat trailer or similar wheeled vehicle shall be stored (except temporarily, not to exceed 24 hours) nearer to the street than the front of the Living Unit situated thereon. No house trailer, mobile home, camper, boat trailer, or similar wheeled vehicle shall be stored or parked on any Lot except in a closed garage or within the fence, wall or enclosed portion of such Lot and any such fence, wall or other enclosure shall be subject to approval by the Architectural Control Committee.

y. All houses and structures permitted shall be completed within twelve (12) months from date of commencement of construction or unless otherwise extended by the Architectural Control Committee. No structure shall be occupied unless and until the premises are connected in a proper way with its sewage treatment system.

z. Specifically exempted from the provisions of this section are activities by the Declarant, carried out in the regular pursuit of construction, maintenance and sales within the subdivision which exemption shall end when all development activity including sales by them are completed.

aa. No vehicle of any size which transports inflammatory or explosive or hazardous cargo may be kept in the Properties at any time, but this shall not preclude reasonable use and access to drill sites by any oil and gas lessee and its contractors and service companies.

bb. No mailbox shall be installed without the prior approval of the Architectural Control Committee. Each mailbox shall be constructed with a masonry column (no more than 48 inches tall), with the masonry material similar to that on the dwelling or as approved by the Architectural Control Committee. All water wells located within an individual property must be covered to the specifications of the Architectural Control Committee prior to occupancy of the residence.

cc. The front yard of each Lot (and the area between the Lot's front yard and the road pavement) on which a residential Living Unit is constructed shall contain an underground water sprinkler system for the purpose of providing sufficient water to preserve and maintain the landscaping in a healthy and attractive condition.

dd. Each lot on which a dwelling unit is constructed shall have landscaping in its front, including but not limited to, shrubs flowers, trees, ground cover, and grass, of a sufficient quality, quantity and design to be compatible with the intent of the Declarant. Landscaping of a Lot shall be completed within one hundred eighty (180) days after the date on which the Living Unit is ninety percent (90%) complete. Lot owners shall use reasonable efforts to preserve, keep and maintain the Landscaping in a healthy and attractive condition.

ee. Each Lot owner shall mow and maintain the landscaping and vegetation on his/her Lot in such a manner as to control weeds, grass and/or other unsightly growth at all times. If after ten (10) days prior written notice an owner shall fail to (i) control weeds, grass and/or other unsightly growth; (ii) remove trash, rubble, building and construction debris; or (iii) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then the Association shall have the easement, authority and right to go onto said Lot for the purpose of mowing and cleaning said Lot on each respective occasion of such mowing or cleaning. The assessments together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the assessment occurred. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage or any renewals or extensions thereof existing prior to the assessment date.

ff. At the time of initial construction of any Living Unit, each residential dwelling shall include provisions for the installation of smoke detectors and such other safety and security devices which, in the opinion of the Architectural Control Committee, are reasonably required for the individual Living Unit.

gg. Each Lot on which a residential Living Unit is constructed shall contain an underground aerobic-type sewage treatment system, which system shall be subject to the approval of the Architectural Control Committee. The individual homeowner shall contract with an aerobic system maintenance company to provide the maintenance to the individual's system.

hh. Each Owner of any Lot or dwelling unit in the Properties, shall maintain his Lot and shall construct and maintain all improvements thereon in accordance with the applicable ordinances and regulations of the County of Tarrant.

**ARTICLE VIII**  
**Easements Reserved**

**Section 1.** No shrubbery, fence, building or other permanent structure (except fencing or pipelines) shall be erected or maintained within areas designated on any recorded plat of the Properties as utility, drainage, access, trail, park, equestrian, or landscaping easements, except as may be approved by the Architectural Control Committee and the County of Tarrant, if applicable.

**Section 2.** Declarant reserves for the use and benefit of the Association a perpetual easement as shown on the recorded plat of the Properties, and of such other additions as may hereafter be covered and included in this Declaration as Supplemented for the purpose of erecting a fence of reasonable height and composition. The Homeowners Association shall repair and maintain the fence as needed.

**Section 3.** All areas designated on any recorded plat of the Properties as utility easements may be used by any oil and gas lessee or pipeline company for the purposes of laying pipelines and constructing appurtenant facilities for transporting and laying pipelines or hoses for transporting water used in oil and gas operations and associated gaseous or liquid hydrocarbons and other minerals with the approval of the Declarant.

**ARTICLE IX**  
**General Provisions**

**Section 1. Duration.** The restrictions, covenants and conditions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of fifty-one Percent (51%) of the Lots or Living Units has been recorded, agreeing to eliminate or change said restrictions, covenants and conditions in whole or in part; provided, however, that no such agreement to change shall then be effective unless made and recorded one (1) year in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least thirty (30) days in advance of any action taken.

**Section 2. Reserved Rights of Declarant.** Notwithstanding any other provision hereof, Declarant reserves the right (upon application and request of the owner of any Lot) to waive, vary or amend (by an appropriate letter to that effect addressed and delivered to such applicant owner by Declarant) the application of any of these covenants and restrictions to such Lot if, in the sole discretion of Declarant, such action be necessary to relieve hardship or permit good architectural planning to be affected. Declarant also reserves the right to redivide and replat any of the property shown on the Plat of any Lot or Unit now or hereafter recorded for any Lot or Unit of the Properties at



anytime in question owned by Declarant without any notice or consent of any other Owner.

**Section 3. Sales Office.** Declarant may designate the location of a Sales Office for use in offering Lots for sale, and for all purposes incident thereto. Said use is intended as temporary, and shall cease at such time as seventy-five percent (75%) of the Lots in all have been sold and Living Units constructed thereon, or on August 1, 2007, whichever occurs later.

**Section 4. Invalidation and Severability.** The invalidation by any Court of any reservation, covenant and restriction herein or in any contract or deed contained shall not impair the full force and effect of any other reservation, covenant or restriction.

**Section 5. Acceptance of Declaration.** The provisions hereof are hereby made a part of each contract and deed in respect of any Lot to the same effect as if fully set forth therein, and each such contract and deed shall be conclusively held to be executed, delivered and accepted upon and subject to the provisions and conditions herein set forth.

**Section 6. Interpretation.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Properties.

**Section 7. Other Committees.** Declarant may appoint a committee of one or more persons to exercise any or all of the discretionary rights and powers reserved herein to Declarant.

**Section 8. Assignment.** Declarant may assign to any person or corporation any or all rights, powers, reservations, easements and privileges herein reserved by and to Declarant and any such assignee shall have the same right to so assign.

**Section 9. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage prepaid to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

**Section 10. Enforcement; Attorney's Fees.** Enforcement of these restrictions, covenants and conditions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any of such restrictions, covenants and conditions, either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants, and failure by the Association or any Owner to enforce any restriction, covenant or condition herein contained shall in no event be deemed a waiver of the right to do so thereafter. If any controversy, claim, or dispute arises relating to this instrument, its breach or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees, and court costs.

**Section 11. Amendments.** Notwithstanding anything herein above, Declarant, at its sole discretion, may amend or change these covenants and restrictions with the written consent of at least fifty-one percent (51%) of the outstanding votes of the Association.

**Section 12. Rules and Regulations.** Declarant may adopt certain reasonable rules and regulations, together with sanctions for the violation thereof, to insure maintenance of the character and quality of Mustang Creek in harmony with the guidelines set forth in this Declaration. From time to time, the Association may amend or vary such rules and regulations according to the Bylaws of the Association.

EXECUTED this 12th day of October, 2004, to be effective September 30, 2003.

LONESOME DOVE DEVELOPMENT, LTD., a  
Texas limited partnership

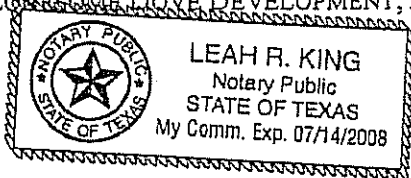
By: HILLTOP, LLC, a Texas limited liability  
company, its general partner

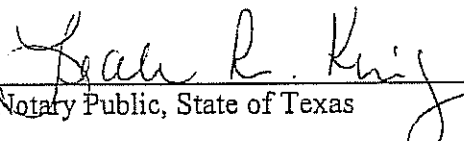
By:   
Michael L. Wells, President

STATE OF TEXAS §

COUNTY OF TARRANT §

This Declaration of Restrictions, Covenants and Conditions of Mustang Creek was acknowledged before me on the 12th day of October, 2004 by Michael L. Wells, President of HILLTOP, LLC, a Texas limited liability company, General Partner of LONESOME DOVE DEVELOPMENT, LTD., a Texas limited partnership.



  
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

Mustang Creek Homeowners Association  
c/o Corland Management Group, Inc. (Dana Holland)  
Post Office Box 553  
Argyle, Texas 76226

# EXHIBIT A

STATE OF TEXAS

COUNTY OF TARRANT

0203212330

A-8444

A-156

WHEREAS, the undersigned, being the Owner of 109.03 acres of land situated in the J.B.B. Martin Survey, Abstract No. 1032 and the T. & N.O. R.R. Survey, Abstract No. 1564 Tarrant County, Texas and being a portion of a tract of land conveyed to Lonesome Dove Development, Ltd. as recorded in Volume 16309, Page 82, Deed Records, Tarrant County, Texas and being more particularly described by metes and bounds as follows:

Commencing at the Southeast corner of the said tract of land recorded in Volume 16309, Page 82, D.R.T.C.T., said point also being the intersection of F.M. 1187 and Winscott Plover Road and also being a PK Nail found

THENCE N 07°44'18" E, a distance of 1206.05 feet to a ½" iron capped "R.P.L.S.4818," said point being the Southeast corner of the herein described tract of land, and also being the POINT OF BEGGINING;

THENCE N 73°30'18" W, a distance of 474.89 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the West right-of-way (60' R.O.W.) of Ricky Ranch Road;

THENCE S 16°29'42" W, a distance of 202.45 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 73°30'18" W, a distance of 143.39 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 55°31'23" W, a distance of 1036.51 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 47°35'53" W, a distance of 465.00 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE S 42°20'08" W, a distance of 297.62 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the North right-of-way (60' R.O.W.) of Katie Corral Drive;

THENCE S 61°53'15" W leaving said right-of-way, a distance of 63.67 feet to a ½" iron capped "R.P.L.S.4818," said point also being the South right-of-way (60' R.O.W.) of Katie Corral Drive;

THENCE S 42°20'08" W leaving said right-of-way, a distance of 370.73 feet to a PK Nail set, said point also being on the centerline of F.M. 1187 (120' ROW);

THENCE N 47°39'52" W along said centerline, a distance of 680.00 feet to a PK Nail set;

THENCE N 42°20'08" E leaving said centerline, a distance of 370.73 feet to a ½" iron capped "R.P.L.S.4818," said point also being the South right-of-way (60' R.O.W.) of Katie Corral Drive;

THENCE N 55°51'00" E leaving said right-of-way, a distance of 61.71 feet to a ½" iron capped "R.P.L.S.4818," said point also being the North right-of-way (60' R.O.W.) of Katie Corral Drive;

THENCE N 42°20'08" E leaving said right-of-way, a distance of 350.00 feet to a ½" iron capped "R.P.L.S.4818";

THENCE N 70°17'32" E, a distance of 727.51 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 17°51'32" W, a distance of 170.00 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 71°59'25" E, a distance of 246.19 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the West right-of-way (60' R.O.W.) of Mustang Creek Court and being the beginning of a non-tangent curve to the right;

THENCE along said curve through a central angle of 272°04'02", whose radius is 60.00 feet, with an arc length of 284.91 feet to a ½" iron rod set, said point also being on the East right-of-way (60' R.O.W.) of Mustang Creek Court;

THENCE S 18°18'08" E leaving said curve, a distance of 26.65 feet to a ½" iron capped "R.P.L.S.4818";

THENCE N 71°41'52" E leaving said right-of-way, a distance of 300.00 feet to a ½" iron capped "R.P.L.S.4818";

THENCE S 18°18'08" E, a distance of 72.46 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE S 77°20'18" E, a distance of 417.07 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the West right-of-way (60' R.O.W.) of Ladigo Lane;

THENCE N 86°21'51" E leaving said right-of-way, a distance of 62.51 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the East right-of-way (60' R.O.W.) of Ladigo Lane;

THENCE S 77°20'18" E leaving said right-of-way, a distance of 315.00 feet to a ½" iron capped "R.P.L.S.4818";

THENCE N 13°41'39" E, a distance of 147.44 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 23°57'45" E, a distance of 165.03 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 12°41'28" E, a distance of 310.70 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 28°15'38" E, a distance of 321.15 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE N 38°29'23" E, a distance of 335.21 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE S 16°58'23" E, a distance of 424.17 feet to a ½" iron capped "R.P.L.S.4818," said point being on the North right-of-way (60' ROW) of Ricky Ranch Road and also being the beginning of a non-tangent curve to the right;

THENCE along said curve through a central angle of 192°32'00", whose radius is 60.00 feet, with an arc length of 201.62 feet to a ½" iron capped "R.P.L.S. 4818," said point also being on the East right-of-way (60' R.O.W.) of Ricky Ranch Road;

THENCE S 28°15'38" W along said right-of-way, a distance of 66.24 feet to a ½" iron capped "R.P.L.S.4818";

THENCE S 61°44'22" E leaving said right-of-way, a distance of 308.75 feet to a ½" iron capped "R.P.L.S.4818," said point also being on the West right-of-way of Winscott Plover Road;

THENCE S 29°29'46" W along said right-of-way, a distance of 405.92 feet to a ½" iron capped "R.P.L.S.4818";

THENCE S 28°15'38" W, a distance of 214.26 feet to a ½" iron capped "R.P.L.S.4818,"

THENCE S 27°04'22" W, a distance of 146.79 feet to a ½" iron capped "R.P.L.S.4818,"


THENCE S 65°19'45" E, a distance of 26.27 feet to a ½" iron capped "R.P.L.S.4818," said point also being the beginning of a non-tangent curve to the left;

THENCE along said curve through a central angle of 07°58'16", whose radius is 2964.79 feet, with an arc length of 412.46 feet to a ½" iron capped "R.P.L.S. 4818";

THENCE S 07°44'18" W leaving said curve, a distance of 1071.01 feet to the POINT OF BEGINNING AND CONTAINING 109.03 ACRES OF LAND.

Do hereby dedicate same to be known as Lots 1 & 2, Block 1, Lots 3-26, Block 2, Lots 1 & 2, Block 3, Lots 1-9 & 13-17, Block 4, Lots 1-13, Block 5, and Lots 1-18 Block 6, Mustang Creek Estates, an addition to Tarrant County, Texas, and dedicate to the public the rights-of-way and easements as shown on the plat.

Executed this 28 day of April, 2003.

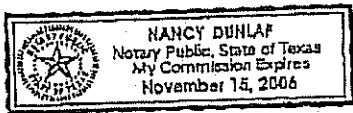
  
\_\_\_\_\_  
MR. MIKE WELLS  
LONESOME DOVE DEVELOPMENT, LTD.

STATE OF TEXAS  
COUNTY OF TARRANT

Before me, the undersigned, a Notary Public in and for the said County, and State, on this day personally appeared Mr. Mike Wells of Lonesome Dove Development, Ltd., and known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me in and for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, the 28 day of April, A.D. 2002.

  
\_\_\_\_\_  
Notary Public



My commission expires the 15 day of NOVEMBER, 2006